S.B. Criminal Misc. Bail Application No.4892/2006

Date : 03.11.2006

HON'BLE MR. SATYA PRAKASH PATHAK, J.

Mr. Dhirendra Singh for the applicants.
Mr. V.R. Mehta, Public Prosecutor.
Mr. P.K. Sharma for complainant.

I have heard learned counsel for the applicants as well as the learned Public Prosecutor for the State assisted by learned counsel for the complainant and carefully gone through the impugned order.

The contention of learned counsel for the applicants is that the accused applicants have falsely been implicated in the case. He submits that deceased died on account of illicit relation with her nephew Mahendra as would appear from statements of Hukam Singh and Bagh Singh. Learned counsel further submits that initially version of prosecution was that in-laws of the deceased harassed the deceased and on that account she committed suicide and infact she was beaten before her death. In view of above, learned counsel submits that a perusal of the post-mortem report reveals that there is no injury on the person of the deceased and cause of the death is by hanging whereas allegation was that she was done to death and thereafter she was hanged. He also submits

that in the post-mortem report it was found that she was pregnant and this fact finds support from the statements of Hukam Singh and others, who have stated that she had developed illicit relationship with Mahendra and became pregnant after two years of death of her husband and her life became miserable, therefore, she committed suicide.

On the other hand, learned Public Prosecutor assisted by learned counsel for the complainant vehemently argued that the in-laws compelled the deceased to develop illicit relationship with Mahendra as they wanted to grab the property of deceased's husband. It has been submitted that husband of the deceased also committed suicide.

Taking into consideration the submissions made before me, prima faice, it appears that allegations were levelled that prior to death of the deceased, she was beaten and hanged but this fact does not find corroboration with the medical report and the case is not under Section 304B but it is a case under Section 306 IPC. Further the factum of the husband of the deceased committed suicide is not on record and what is apparent on record is that much after death of the husband of the deceased she committed suicide.

Without expressing any opinion on the merit of the case while taking into consideration the overall facts and circumstances of the present case, I deem it just and proper to enlarge the accused applicants on bail.

Accordingly, the bail application filed under Sec. 439 Cr.P.C. is allowed and it is directed that applicants (1) Vachhan Singh S/o Parbat Singh and (2) Ratan Singh S/o Keshar Singh shall be released on bail in FIR No.187/2006 P.S. Bhinmal, District Jalore, provided each of them executes a personal bond in the sum of Rs.30,000/- with two sound and solvent sureties in the sum of Rs.15,000/- each to the satisfaction of learned trial court for their appearance before that court on each and every date of hearing and whenever called upon to do so till the completion of the trial. However, it is observed that observations mader hereinabove shall not in any manner affect the trial and the learned trial court is free to consider the matter independently. The observations are strictly restricted to the disposal of this bail application.

(SATYA PRAKASH PATHAK), J.

vijayant